

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-687V

Filed: February 8, 2018

UNPUBLISHED

KRISTIE MCCLURE,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Tetanus Diphtheria  
acellular Pertussis (Tdap) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*Ann Mayhew Golski, Maglio Christopher & Toale, PA, Washington, DC, for petitioner.  
Lynn Elizabeth Ricciardella, U.S. Department of Justice, Washington, DC, for  
respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Dorsey**, Chief Special Master:

On May 24, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered an “on-table” left shoulder injury as a result of a vaccine containing tetanus toxoid, administered on November 7, 2015. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On February 6, 2018, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent “has reviewed the petition and medical records filed in

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

this case and has concluded that petitioner's alleged injury is consistent with a shoulder injury related to vaccine administration ("SIRVA"), as defined on the Vaccine Injury Table." *Id.* at 4. Respondent further agrees that petitioner suffered the residual effects of her injury for more than six months and that petitioner has satisfied all the legal prerequisites to compensation under the Vaccine Act. *Id.*

**In view of respondent's position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master